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10 Massage Envy Franchising, LLC

11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA

13 GAIL HAHN, individually and on  
14 behalf of all other similarly situated  
California residents,

15 Plaintiff,

16 v.

17 MASSAGE ENVY FRANCHISING,  
18 LLC, a Delaware limited liability  
company;

19 Defendants.  
20

Case No. 12-CV-153-DMS (BGS)

**NOTICE OF MOTION AND  
MOTION TO DISMISS THE FIRST  
AMENDED CLASS ACTION  
COMPLAINT PURSUANT TO FED.  
R. CIV. P. 12(b)(1), (6), (7), and 19**

The Hon. Dana M. Sabraw

Hearing Date: August 9, 2013  
Hearing Time: 1:30 p.m.  
Courtroom: 13A

21 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD**

22 **HEREIN:**

23 PLEASE TAKE NOTICE that on August 9, 2013, at 1:30 p.m., or as soon  
24 thereafter as counsel may be heard, in Courtroom 13A of the above-entitled court,  
25 located at 221 West Broadway, San Diego, CA 92101, Defendant Massage Envy  
26 Franchising, LLC (“MEF”) will and hereby does move this Court to dismiss with  
27 prejudice the First Amended Class Action Complaint [Doc. 36] pursuant to Federal  
28 Rules of Civil Procedure 12(b)(1), (6), (7), and 19.

MEF brings this Motion because Plaintiff Gail Hahn (“Hahn”) lacks standing under Federal Rules of Civil Procedure 12(b)(1) to bring her First Amended Class Action Complaint (the “FAC”). MEF also brings this Motion under Federal Rules of Civil Procedure 12(b)(7) and 19 as Hahn has failed to join necessary and indispensable parties. Finally, MEF brings this Motion because, pursuant to Federal Rules of Civil Procedure 12(b)(6), the FAC fails to state claims upon which relief may be granted.

For each of these reasons, MEF requests this Court dismiss with prejudice Hahn’s claims under the unlawful and unfair prongs of the Business & Professions Code § 17200, for breach of the implied covenant of good faith and fair dealing, and for declaratory relief.

This Notice of Motion and Motion is based upon the attached Memorandum of Points and Authorities, the records and pleadings on file in this action, and on such further evidence, either oral or documentary, presented to this Court at the motion hearing.

Dated: July 12, 2013

DLA PIPER LLP (US)

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